

NEW HAMPSHIRE—WRIT OF ERROR—PATENT CASES.

MEMORIAL

OF

INHABITANTS OF THE STATE OF NEW HAMPSHIRE,

In relation to appeals in cases arising under the patent laws of the United States.

JANUARY 26, 1835.

Read, and committed to the Committee of the Whole House to which is committed the bill (H. R. No. 633) to authorize a writ of error in certain cases relating to patent rights to the Supreme Court of the United States.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled :

The memorial of the subscribers, citizens of the State of New Hampshire,
RESPECTFULLY REPRESENTS :

That your memorialists are deeply interested in manufactures and the mechanic arts, and in the operation of the laws regulating and securing patents for useful inventions. That, in the administration of those laws, and in the construction, by the courts, of patents granted under them, questions of law frequently arise, which require and deserve the opinion of the highest judicial tribunal of the nation. That, by the provisions of the judiciary laws, this opinion can never be obtained, unless "the matter in dispute," in the individual case, "exceeds the sum or value of two thousand dollars, exclusive of costs." That a very great majority of cases arising under the patent laws are brought for single alleged infringements of a patent in a particular case, where the damages recovered do not amount to the sum of two thousand dollars, but where the questions of law in issue may affect the rights and property of others to the amount of millions : and although judgments for plaintiffs in such cases are not binding to conclude others interested in the questions, who are not parties to the suits, yet they are claimed to have, and may have, an important bearing upon the rights of parties in such subsequent suits, arising under the same patent, as well interlocutory motions for injunctions, as in their influence upon the courts and juries in trials upon the merits. That the plaintiff may, in these cases, always allege his damages at a sum exceeding two thousand dollars, and thus, according to decisions of the Supreme Court, always secure to himself a revision of the opinion of the circuit court,

should judgment be there had against him : and he can always select a cause of action, where the damages recovered, if he prevails, will not authorize a writ of error or an appeal to the Supreme Court ; and thus, in all or most of the cases which arise, the defendants against whom judgment is had, cannot in any manner obtain the opinion of the highest court upon the construction or validity of patents, or the various other important questions of law arising in such cases, giving to the patentees, and those claiming under them, who are plaintiffs, a chance for two trials, but practically denying to defendants the same privilege, however much they may be dissatisfied with the opinion of the inferior court on important questions of law. By virtue of these provisions, it may well happen that a hundred or more cases may successively arise under the same patent, and within one judicial circuit, all controlled by the opinion of one circuit court, governed by the opinion of a single judge, in matters of law, all collectively involving property to an immense amount, but neither of them presenting a case in behalf of the defendant for the appellate jurisdiction of the Supreme Court. Your memorialists, therefore, pray for the passage of a law extending to parties to actions in the circuit courts arising under the patent laws of the United States, the right to a writ of error or an appeal to the Supreme Court in all cases where the matter in dispute, or the sum for which judgment is recovered, exceeds five hundred dollars.

December, 1834.

F. Grant
George Gardner
Thomas Rand
Jas. Boardman
Jeremiah Robinson, jr.
J. Bradley
S. D. Bell
Josiah G. Smith
Joseph Odlin
N. Gilman, 3d
J. L. Robinson
Benj. Furbish
John Foss
Wm. Perry
Nathaniel Rundlet
Charles Conner
John Hoyt

James Odlin
John Kimball
W. Burley
Joseph Tilton, jr.
Benj. Abbot
Theodore Moses
William Morrill
Chas. Norris
Daniel Melcher
J. & B. Williams
Joshua Pope
Thomas Leavitt
Peter Chadwick
James Bell
John Burnham
John Lowe, jr.
John Horiston

John A. Brown
Thomas Lovering
Jotham Lawrence
Daniel Ranlet
Jeremiah Dow, jr.
George Wiswall
Samuel Rea
James B. Pray
Charles W. Brewster
Benj. L. Lang
Isaac Flagg
Albert Greenleaf
Gideon Beck
Samuel Cushman
W. H. Y. Hackett
Isaac Waldron
Wm. D. Little.